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January 16, 2004

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TWB-204
Washington, D.C. 20554

Re: WC Docket No. 03-228, Section 272(b)(1)'s "Operate Independently" Requirement for Section 272 Affiliates

Notice of Ex-Parte Communication

Dear Ms. Dortch:

On Thursday, January 15, 2004, Brett Kissel, Gary Phillips, Anu Seam, Keith Epstein and John Di Bene of SBC Communications Inc. met with Scott Bergmann, Christi Shewman and Pamela Megna of the Wireline Competition Bureau. The purpose of the meeting was to address the Notice of Proposed Rulemaking in the above captioned proceeding and in particular the circumstances regarding SBC's separate data affiliates. The attached documents were provided to the Division staff.

In accordance with section 1.1206 of the Commission's rules, this letter is being filed in the above referenced proceeding via the Commission's ECFS system. Should you have any questions regarding the attached, please do not hesitate to contact me by whatever means are most convenient for you.

Sincerely,

A handwritten signature in blue ink that reads "Brett A. Kissel". The signature is written in a cursive, flowing style.

ATTACHMENT

cc: C. Shewman
P. Megna
S. Bergmann

“Operate Independently” NPRM

**Sharing OI&M and NP&E among SBC
data affiliates**

January 15, 2004



SBC Data Services

SBC Internet Services

Dial-up
DSL Internet Services

SBC Telecom

Out of Region Voice, Data

SBC DataComm

Network Integration
WAN/LANs, CPE

SBC IP Communications

Hosted Communication
Voice over IP

SBC Long Distance

InterLATA Voice, Data

SBC Advanced Solutions

DSL Transport
IntraLATA/National Data Services

SBC E-Services

Web Hosting
Internet Data Centers



OI&M and NP&E Restrictions Prevent Customers from Receiving Seamless End-to-End Managed Services

| Can SBC Data Affiliates Perform OI&M/NPE Functions | | |
|--|---------|-------------------|
| <i>Affiliate</i> | for ASI | for Long Distance |
| ASI | N/A | No |
| Long Distance | No | N/A |
| Internet Services | No | No |
| Telecom | No | No |
| DataComm | No | No |

OI&M relief would allow SBC Data Services to provide customers with end-to-end managed services and encourage competition



Examples of State Law Requiring FCC Preemption

The following OI&M restrictions are contained in state certifications of authority to operate within the state:

- **WISCONSIN:** AADS shall not seek or obtain any service or service component from its affiliated local exchange companies, including service ordering, service availability, service installation, service maintenance and testing, and operational support systems on terms more favorable than the equivalent service or service components could be obtained from the affiliate by other providers of digital data services.
- **INDIANA:** AADS shall not seek or obtain any service or service component from an affiliated local exchange company, including service ordering, service availability, service installation, service maintenance and testing, and operational support systems on terms more favorable than the equivalent service or service components could be obtained from the affiliate by other providers of digital data services.
- **ILLINOIS:** AADS shall operate independently from AI in the furnishing of enhanced services and customer premises equipment, with its own books of account, separate officers and separate operating, marketing, installation, and maintenance personnel. AADS shall not utilize directly or indirectly the resources of AI for AADS' marketing or its enhanced data services. All employee salaries and benefits shall be borne by AADS alone.